

*State of New Mexico*  
**ENVIRONMENTAL IMPROVEMENT BOARD**  
*Harold Runnels Building, N-2150*  
*1190 St. Francis Drive, P. O. Box 5469*  
*Santa Fe, New Mexico 87502*

**Environmental Improvement Board Meeting**

**September 2, 2011 9:00 a.m.**  
**Room 307, State Capitol Building**  
**490 Old Santa Fe Trail**  
**Santa Fe, New Mexico 87501**

**Members Present:** Deborah Peacock, Chair  
Elizabeth Ryan, Secretary  
Jeffrey Bryce, Member  
Greg Fulfer, Member  
Timothy Morrow, Member  
James Casciano, Member

**Members Absent:** John Volkerding, Vice Chair

**Others Present:** Stephen Vigil, Board Counsel  
Carmella Casados, Administrator  
Felicia Orth, Hearing Officer  
Cheryl Arreguin, Court Reporter  
Others-See attached sign-in sheets

**Item 1. Roll Call**

Roll was called; a quorum was present.

**Item 2. How Notice Requirements Were Met**

Ms. Casados described how notice requirements were met for the meeting consistent with the Board's Open Meetings Act Resolution.

**Item 3. Approval of Agenda**

**Action:** Mr. Vigil suggested tabling Item 8 rather than deleting from agenda.

Mr. Morrow moved Board approval of the agenda. Mr. Casciano seconded the motion. The motion passed unanimously.

**Item 4. Public Comment Unrelated to Agenda Items**

**Action:** None.

**Item 5. Approval of meeting minutes, August 1-2, 2011.**

**Action:** Mr. Peacock moved the adoption of August 1-2, 2011 meeting minutes with changes to striking lines 193-235 and adding language to line 237. Ms. Ryan seconded the motion. The motion passed unanimously.

Mr. Casciano moved to approve the minutes as amended. Mr. Fulfer seconded the motion. The motion passed unanimously.

**Item 6. Request for Hearing in EIB 11-18 (R), Proposed Revisions to 20.7.10, NMAC, Drinking Water Regulations, Bill Grantham, NMED/OGC.**

**Action:** Bill Grantham requested that the Board set for hearing **EIB 11-18 (R)**, the proposed revisions to 20.7.10, NMAC, Drinking Water Regulations on January 3, 2012.

Mr. Bryce moved to set the hearing for January 3, 2012. Mr. Fulfer seconded the motion. The motion passed unanimously.

Mr. Casciano moved that Ms. Ryan be appointed as the Hearing Officer. Mr. Fulfer seconded the motion. The motion passed unanimously.

**Item 7. Deliberations in EIB 11-03 (R), Liquid Waste Regulations re: licensure (Section 904). Andrew Knight, NMED/OGC; Dennis McQuillan, NMED/FOB; Link Summers; Ralph Baker Dotson and Eugene Bassett, Professional Onsite Wastewater Reuse Association of New Mexico; Jace Ensor, New Mexico Onsite Wastewater Association.**

**Action:** The deliberations in EIB 11-03(R) were recorded and transcribed by Cheryl Arreguin of Kathy Townsend Court Reporters. The Transcript is available in the office of the Board Administrator.

Ms. Peacock moved to approve the addition definition of (5) for orphaned advanced treatment system. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve 20.7.3.904A as amended per the suggested language changes. Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock move to approve language of definition of “qualified homeowner.” Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve 20.7.3.401C as suggested with amendments. Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept the proposed language in 20.7.3.401K. Mr. Casciano seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the proposed language to add two commas in the first line of 20.7.3.401L. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the deletion of B, C, D, and E from 20.7.3.402. Mr. Bryce seconded the motion. The motion passed unanimously.

Mr. Casciano moved to accept the changes for 20.7.3.902 as outlined in the Department’s proposal. Ms. Peacock seconded the motion. The motion passed unanimously.

Ms. Ryan moved to approve 20.7.3.902F as proposed. Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept the proposed changes for 20.7.3.904B (1) with the amendment of add “subsection E of” before “20.7.3.902 NMAC” in the second line. Ms. Ryan seconded the motion. The motion passes unanimously.

Ms. Peacock moved to approve the language as proposed to be amended in 20.7.3.904 B(1) adding “subsection E of 20.7.902”, in (2)(b) adding “registered” in front of “professional engineer”, (2)(e) adding “similar accreditation or certification and/ or” before “a combination of training and experience as approved by the department.” And then changing (2)(f) to (B)(3), “inspection of advanced wastewater treatment systems shall be performed only by persons qualified pursuant to subsection C of 20.7.3.904.” Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed in 20.7.3.904(C)(2) with the suggested amendment. “or their authorized trainers.” Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed in 20.7.3.904(C)(3). Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed to be amended in 20.7.3.904(D). Mr. Bryce seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the language as proposed to be amended and change 20.7.3.904(D) to “(E).” Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to accept language in 20.7.3.401J as proposed. Ms. Ryan seconded the motion. The motion passed unanimously.

Ms. Peacock moved to delete G, H, and I of 20.7.401 as proposed. Mr. Fulfer seconded the motion. The motion passed unanimously.

Ms. Peacock moved to approve the proposed amendments to 20.7.3 as modified by the board. Mr. Bryce seconded the motion. The motion passed unanimously.

**Item 12. Executive session to discuss pending litigation. Stephen Vigil, NMAGO.**

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| a. | Helena Chemical Co.<br>v. NMED and N.M.<br>Environmental<br>Improvement Board                                    | COURT OF APPEALS No. 31,037<br><br>Appeal of EIB 10-02(A); 10-11(A), Air<br>Quality Permit Adjudication. |
| b. | City of Farmington<br>and Farmington<br>Electric Utility<br>System v. N.M.<br>Environmental<br>Improvement Board | COURT OF APPEALS No. 30,897<br><br>Appeal of EIB 10-04(R): Cap and<br>Trade Provisions.                  |
|    | N.M. Oil and Gas<br>Association v.<br>N.M.<br>Environmental<br>Improvement<br>Board                              | COURT OF APPEALS No. 30,898<br><br>Appeal of EIB 10-04(R): Cap and<br>Trade Provisions.                  |

	Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,899  Appeal of EIB 10-04(R): Cap and Trade Provisions.
	Southwestern Public Service Company v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,901  Appeal of EIB 10-04(R): Cap and Trade Provisions.
	Public Service Co. Of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,902  Appeal of EIB 10-04(R): Cap and Trade Provisions.
	Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,907  Appeal of EIB 10-04(R): Cap and Trade Provisions.
	El Paso Electric Co. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,908  Appeal of EIB 10-04(R): Cap and Trade Provisions.
c.	N.M. Oil & Gas Ass'n. et al. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,952  Appeal of EIB 10-09(R): Greenhouse Gas Reporting

	Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,953  Appeal of EIB 10-09(R): Greenhouse Gas Reporting
	Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 30,954  Appeal of EIB 10-09(R): Greenhouse Gas Reporting
d.	City of Farmington and Farmington Electric Utility System v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,015  Appeal of EIB 08-19(R): New Energy Economy
	Independent Petroleum Association of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,016  Appeal of EIB 08-19(R): New Energy Economy
	N.M. Oil & Gas Ass'n, et al. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,017  Appeal of EIB 08-19(R): New Energy Economy
	El Paso Electric Co. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,018  Appeal of EIB 08-19(R): New Energy Economy

Tri-State Generation and Transmission Association, Inc. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,019  Appeal of EIB 08-19(R): New Energy Economy
Public Service Co. Of N.M. v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,020  Appeal of EIB 08-19(R): New Energy Economy
Southwestern Public Service Company v. N.M. Environmental Improvement Board	COURT OF APPEALS No. 31,021  Appeal of EIB 08-19(R): New Energy Economy
e. New Energy Economy, Inc. v. Judge Linda M. Vanzi; Public Service Co. of N.M. and N.M. Environmental Improvement Board, real parties In interest	Verified Emergency Petition for Writ of Superintending Control or Other Appropriate Writ (Sup. Ct. 33,074)  Relates to COURT OF APPEALS Nos. 31,020, 30,902 and 31,191
Amigos Bravos, League of Women Voters of NM and Center of South- west Culture vs. Judge Linda M. Vanzi; Public Service Co. of N.M. and N.M. Environmental Improvement Board, real parties In interest	Verified Emergency Petition for Writ of Superintending Control or Other Appropriate Writ  Relates to COURT OF APPEALS No. 31,020

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| f. | State (ex rel)<br>Hanosh v. N.M.<br>Environmental<br>Improvement<br>Board   | THIRD JUDICIAL DISTRICT<br>D-0307-CV-200702708<br><br>Clean Car Rules  |
| g. | Mesquite<br>Community Action<br>Committee v.<br>Hon. Michael E.<br>Vigil, and Helena<br>Chemical Co.,<br>NM Environment<br>Department,<br>NM Environmental<br>Improvement<br>Board. | SUPREME COURT No. 33,116<br><br>Verified Emergency Petition for Writ<br>of Superintending Control or Other<br>Appropriate Writ |

**Action:** The Board came back into open session at approximately at 1:00 P.M.

The Board took no action in closed session and discussed no other business.

**Item 13. Other business.**

None

**Item 14. Board Member Comments and Questions.**

None

**Item 15. Next meeting—November 8, 2011**

Coming up:

- a. Hearings beginning **November 8** in **EIB 11-15/17**, proposed repeal of regulations requiring greenhouse gas emissions reporting and verification, and the cap and trade program, 20.2.300, -301, -350 NMAC.
- b. Hearings beginning **December 5** in **EIB 11-16**, proposed repeal of regulations on greenhouse gas emissions reductions, 20.2.100 NMAC.
- c. Hearing in **EIB 11-18 (R)** on **January 3**, Proposed Revisions to 20.7.10, NMAC Drinking Water Regulations, Bill Grantham, NMED/ OGC.



**Item 16.      Adjournment.**

Ms. Peacock adjourned the meeting.

  
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**Board Secretary**

